



DEPARTMENT OF THE TREASURY
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

OFFICE OF
CHIEF COUNSEL

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CC:INTL:BR1: [REDACTED]
GENIN-117677-03

[REDACTED]

Dear [REDACTED]:

Reference: Application of U.S.-Italy Income Tax Treaty

This responds to your letter to the Office of Chief Counsel dated February 26, 2003, which outlines a question you have regarding the taxation of your Italian pension by the state of [REDACTED]. In response your inquiry, we are providing the following general information. This information letter is advisory only and has no binding effect on the Internal Revenue Service.

You have requested general information regarding the application of the United States - Italy Income Tax Treaty ("Treaty"), available on the Internet at <http://www.irs.gov/pub/irs-trty/italy.pdf>, to pension payments received by you from Italy. You are a U.S. resident living in [REDACTED], and you have asked why you are allowed a partial tax credit against your U.S. federal income taxes for the income taxes you pay to Italy, but are not allowed any tax credit against your [REDACTED] income taxes for foreign income taxes paid.

Article 23 (Relief from Double Taxation) of the Treaty provides, in pertinent part:

2) In accordance with the provisions and subject to the limitations of the law of the United States..., the United States shall allow to a resident or citizen of the United States as a credit against the United States tax on income the appropriate amount of income tax paid to Italy; ...

Article 2 (Taxes Covered) of the Treaty provides, in pertinent part:

The existing taxes to which this Convention shall apply are:

a) in the case of the United States: the Federal income taxes imposed by the Internal Revenue Code...

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State income taxes are not imposed by the Internal Revenue Code; rather, they are imposed by state statutes enacted at the discretion of the individual states. The Treaty does not apply to income taxes imposed by any of the individual states, including [REDACTED], and does not require any of the individual states to allow a credit against their income tax for taxes paid to Italy. Each state is free to enact its own rules.

We hope this information will be helpful to you. If you require a definitive determination of the law applicable to your particular facts, you may submit a request for a private letter ruling to this office pursuant to the rules set forth in Revenue Procedure 2003-1, which is available on the Internet at <http://www.irs.gov/pub/irs-irbs/irb03-01.pdf>. If you should have any further questions in this matter, please contact [REDACTED] at [REDACTED].

Sincerely,

M. Grace Fleeman
Senior Counsel, Branch 1
Office of Associate Chief Counsel
(International)